

BODY WORN CAMERA PROGRAM

1. REASON FOR ISSUE

To establish the Department of Veterans Affairs (VA), Office of Inspector General (OIG), Office of Investigations (OI) policy and procedures governing the Body Worn Camera (BWC) Program consistent with section 13 of the Executive Order on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety issued on May 25, 2022.

2. SUMMARY OF CONTENTS

This directive includes information related to the following:

- BWC program manager, supervisor, and special agent responsibilities
- Use of BWCs during enforcement operations
- Restrictions on use
- Placement of BWC
- Operation planning: briefing and execution of joint operations
- Deviation from BWC policy
- Storage, records retention, and review
- Requests for disclosure or release of BWC recordings
- BWC equipment care, loss, and theft
- Training

3. RELATED OIG DIRECTIVES OR POLICIES

- a. OIG Directive 352, *Records Management*, February 15, 2013.
- b. OIG Directive 327, *Protection and Release of Information*, February 13, 2019.

4. RESPONSIBLE OFFICE

Special Agent in Charge (SAC), Office of Professional Responsibility (51X).

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5. RECERTIFICATION

This directive will continue to serve as VA OIG policy until it is recertified or rescinded.

CERTIFIED BY



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I. PURPOSE

To establish the policy and procedures relating to the implementation of a body worn camera (BWC) Program, including detailing the responsibilities of special agents (SAs) and their supervisors; describing BWC authorized use; outlining recording review, storage, and retention requirements; and training. The policy will be implemented once VA OIG has procured all the necessary equipment and storage capabilities.

II. BACKGROUND

As the Department of Justice has recognized, BWCs build public trust by providing transparency and accountability in circumstances for which the use of force may reasonably be anticipated during planned law enforcement operations. VA OIG SAs do not engage in general policing or public patrol and do not routinely engage with the public in response to emergency calls. Therefore, this policy focuses on the deployment and use of BWCs during planned law enforcement operations in which the use of force may reasonably be anticipated, such as the planned execution of a search warrant or arrest. While BWC recordings may enhance the VA OIG's ability to obtain evidence for investigative and prosecutorial purposes, it should be noted that the recordings may depict actions, individuals, conditions, or statements that the SA did not see or hear. Conversely, the SA may have heard or seen actions, individuals, conditions, or statements that may not have been recorded by the BWC. While the recordings depict audio and visual information from the scene, it is important to remember that individuals in stressful situations may perceive them differently.

This policy does not supersede existing VA OIG policies or practices for the collection of evidence, conducting interviews, or the use of surreptitious recording devices in undercover operations.

III. RESPONSIBILITIES

A. Special Agent in Charge (51E)

The SAC of the Cyber Investigations and Technical Operations Division (51E) will oversee VA OIG's BWC Program. The SAC of 51E will appoint a BWC program manager, who will implement and manage the BWC Program.

B. BWC Program Manager

The BWC program manager will be responsible for the overall management of the program and will remain abreast of current and emerging BWC technology, assist with procuring and maintaining BWC equipment and associated software, and ensure SAs are properly trained. The program manager will periodically review BWC recordings to

evaluate the quality of the recordings and to ensure that VA OIG SAs are properly operating BWCs in the manner intended.

C. Supervisors

SACs, Resident Agents in Charge (RACs), Supervisory Assistant Special Agents in Charge (ASACs), or their designee, must ensure that all VA OIG SAs receive the required training on the use of BWCs and operate the cameras in accordance with this directive.

D. Special Agents

SAs must ensure they attend required BWC training and refreshers and use BWCs in accordance with this directive.

IV. USE OF BODY WORN CAMERAS DURING ENFORCEMENT OPERATIONS

SAs must wear and activate VA OIG-issued BWCs for the purposes of recording their actions during planned executions of search warrants and when making arrests.

A. BWC Activation

Upon the direction of the SAC or RAC, hereinafter referred to as the VA OIG on-scene supervisor, BWCs must be activated by all participating SAs with VA OIG-issued BWCs when approaching a subject or premises during a planned enforcement operation. If, while wearing a BWC pursuant to this directive, an SA encounters an individual who is uncooperative, violent, assaultive, or exhibiting criminal conduct that in the SA's judgement, consistent with their training and experience, could lead to the use of physical or deadly force or be relevant to the investigation, the SA must activate and record with their BWC as soon as it is safe and practical to do so.

B. BWC Deactivation

BWCs may be deactivated by SAs only when directed by the VA OIG on-scene supervisor when the supervisor determines, at their discretion, the scene is secured. For purposes of this directive, the term "secured" means that the scene is safe and under law enforcement control.

Search Warrants

When executing a search warrant, the VA OIG on-scene supervisor may authorize SAs to deactivate their BWCs once the location to be searched has been secured and all subjects have been searched. The VA OIG on-scene supervisor will use

their discretion to determine when team members conducting perimeter security during the execution of the warrant may stop recording.

Planned Arrests

When executing an arrest warrant or arresting an individual during the execution of a search warrant, the VA OIG on-scene supervisor may authorize the deactivation of BWCs once they have determined the scene is secure and any arrestees are handcuffed and placed in the transport vehicle. While on the scene of an arrest and during prisoner transports from the scene of arrest, SAs must continue to wear their BWCs and leave them in the Ready (Buffering), or equivalent mode, until the prisoner is no longer in the custody of VA OIG SAs.

Interviews

During any of the enforcement operations mentioned above, a BWC may be used to record an interview with an arrestee or detainee. However, the deployment of BWCs is not intended to replace existing OIG policy regarding interviews or other evidence collection.

Exceptions

1. The VA OIG on-scene supervisor may authorize SAs to deactivate their BWCs if the enforcement operation is of such a duration that BWCs need to be deactivated to conserve power and/or for temporary storage.
2. SAs may deactivate their BWCs at any time they need to obtain emergency medical attention or attend to a personal matter that takes them away from the planned operation, such as using the restroom.

V. RESTRICTIONS ON USE

SAs equipped with BWCs must be mindful of locations where recording may be considered insensitive, inappropriate, or prohibited by privacy policies. BWCs must only be used in conjunction with official law enforcement duties and not personal activities.

A. Prohibited Use of BWCs

Absent approval from the Assistant Inspector General for Investigations (AIGI) or a Deputy Assistant Inspection General for Investigations (DAIGI), in consultation with an assigned prosecutor or the VA OIG Office of the Counselor (50C), BWCs must not be used to record in a medical center or other clinical setting, if the law enforcement

operation is not taking place in the facility. BWCs are also not to be used if personnel are conducting activities involving classified information.

B. Redacting BWC Recordings

The BWC program manager, in consultation with 50C, may use redaction software to blur images or portions of images, or minimize audio content, when making copies of BWC recordings for disclosure. This may be done when BWCs record content that otherwise should not be shared because of medical privacy or classified information, or any other law enforcement sensitivities or privacy concerns. Redaction may also be appropriate when recordings include undercover personnel, confidential sources, sensitive investigative techniques or equipment, minors, injured or incapacitated individuals, or sensitive locations such as restrooms or locker rooms.

VI. PLACEMENT OF BWC

If a tactical ballistic vest is worn, the BWC must be worn on the outside and front of the tactical ballistic vest. The tactical ballistic vest will be worn over the SA's clothing.

In the event a BWC is deployed when a tactical ballistic vest is not worn, the BWC must be secured to the SA's outer clothing, lanyard, or belt.

SAs must ensure the BWC is not obstructed by clothing or other objects on their person. SAs must not alter any tactically sound principles to accommodate the BWC's visual recording. SAs should remember to seek cover and concealment and use proper tactics to ensure their safety while wearing the BWC, even if doing so inadvertently obstructs the BWC's coverage.

If an undercover SA participates in the operation and the SAs on the scene are not able to take measures to avoid recording the identity of the undercover SA, the VA OIG on-scene supervisor must inform the BWC program manager. The program manager will redact any recordings, as appropriate, with concurrence from 50C.

VII. OPERATION PLANNING: BRIEFING AND EXECUTION OF JOINT OPERATIONS

Prior to conducting an enforcement operation, the VA OIG on-scene supervisor, or their designee, will conduct a briefing regarding the planned use of BWCs. The briefing must include a discussion of any steps that can be taken to avoid recording undercover personnel or confidential informants or sources. All SAs who are issued and expected to activate BWCs during an operation must receive the operation briefing.

Before executing a search or arrest warrant, the VA OIG on-scene supervisor, or their designee, must also brief all members of the search or arrest team.

A. Joint Operations

When conducting enforcement operations with a partner law enforcement agency that will deploy BWCs during the operation, SAs must comply with this directive.

VA OIG-Led Enforcement Operations

When conducting a VA OIG-led enforcement operation with a partner law enforcement agency, the VA OIG on-scene supervisor must discuss the BWC deployment for the joint operation with the partner agency's team leader and/or team members prior to the operation. The discussion must include briefing the partner agency on the VA OIG's BWC directive and reviewing the partner agency's BWC policy, if applicable. Special care should be taken to resolve any issues related to undercover agents.

Other Agency-Led Enforcement Operations

When the VA OIG is not the lead agency on an enforcement operation, the VA OIG on-scene supervisor must brief the partner agency's team leader and/or team members of the VA OIG's BWC directive prior to the enforcement operation and similarly resolve any outstanding issues as to undercover agents.

Before an operation using BWCs, the SAC overseeing the operation must be notified immediately of any unresolved conflicts with any partner agency related to BWC deployment. If the SAC is unable to resolve the conflicts, the SAC must notify the DAIGI of any unresolved conflicts with any partner law enforcement agency regarding BWC deployment for the operation. Any unresolved conflicts must be documented in the Operational Plan or memorandum in the case file.

VIII. DEVIATION FROM BWC POLICY

Deviations from policy related to BWC activation or deactivation must be handled as follows:

A. Preapproved Deviations

Any deviation from this directive must be approved, in writing, by the AIGI (or DAIGI in the AIGI's absence) and documented in the Operational Plan. Prior to the operation, policy deviations must be addressed in a decision memorandum approved by the AIGI.

B. Unplanned Deviations

Any deviation from the directive related to BWC activation or deactivation due to device malfunction, operator error, or other circumstances, must be documented in a memorandum from the VA OIG SA to the SAC overseeing the operation after

notification to the VA OIG on-scene supervisor. The memorandum must address why the recording was not made, why the recording was interrupted, and/or why the recording was terminated.

IX. STORAGE, RECORDS RETENTION, AND RECORDING REVIEW

A. Storage of BWC Recordings

BWC recordings must be uploaded as soon as practicable, usually within 24 hours, and stored in a VA OIG-controlled cloud storage service, with any vendor access logged. Access to the recordings will be controlled by the BWC program manager. Each file will contain all relevant metadata, such as the date and time of the recording, the name of the SA who recorded it, and whenever possible the case name and number. An audit log will automatically be created and maintained that includes the history of each recording, the date and time each recording has been reviewed, and the name of each reviewer.

B. Records Retention

BWC recordings must be securely stored according to OIG Directive 352, *Records Management*.

BWC recordings that are not associated with complaints or allegations made against VA OIG employees and do not contain information pertinent to the case being investigated will be deleted 10 years following case closure unless a request is provided in writing to the BWC program manager through the AIGI or their designee. These recordings will be maintained in a VA OIG-controlled cloud storage service where initially uploaded.

BWC recordings associated with information pertinent to the case being investigated, such as a spontaneous statement of a subject, witness, or law enforcement officer, will be kept with the case file in accordance with VA OIG's records management directive and consistent with federal law.

BWC recordings associated with use of force incidents involving VA OIG SAs, complaints or allegations made against VA OIG employees, or any other investigations of VA OIG employees, will be retained as directed by the SAC of 51X and the AIGI, or their designee, in consultation with 50C.

BWC recordings associated with normal training exercises (i.e., no injuries) will be deleted after the appropriate instructor (e.g., for firearms, control tactics, use of force) reviews the recordings for teachable scenarios and confirms it is acceptable to delete the recordings. If a teachable scenario is found, the instructor will ask the VA OIG SA(s) involved if they would like their faces redacted and/or voices changed from the recording before its use in future trainings. The BWC PM will redact faces and change voices, as

requested. The unredacted BWC recording will be deleted after all changes are made to the training video.

C. Review of BWC Recordings

Access to stored BWC recordings must be password-protected, recorded automatically by the system software, and audited periodically by the BWC program manager to ensure that only authorized users access the recordings and associated data for legitimate and authorized purposes.

SAs may review their own BWC recordings, subject to the restrictions below.

1. **Permitted Reviews.** SAs may access BWC recordings when necessary to perform the essential functions of their job, including but not limited to such review necessary to draft and review reports related to the operation. SAs may also access BWC recordings when necessary to respond to allegations of administrative or criminal misconduct or poor performance relating to the recorded enforcement activity, subject to the limitations of subsections 2. and 3. immediately below.
2. **Reviews by Subjects.** An SA who is the subject of an administrative investigation relating to the recorded enforcement activity may review their own BWC recording prior to being interviewed by any VA OIG or non-VA OIG personnel investigating allegations about the SA's conduct. The SA may review their BWC recording with their attorney or other representative, provided the attorney or representative signs a nondisclosure agreement. The SA will not be permitted to make or take a copy of the recording.
3. **Special Agent-Involved Shootings and Other Uses of Force.** Any SA-involved shooting or use of force will be managed in accordance with VA OIG policy. The involved SAs and any other SA witnesses must provide their BWCs to the VA OIG on-scene supervisor after the scene is secure. If the VA OIG on-scene supervisor is involved or witnessed the shooting or use of force, the BWCs must be provided to the next senior VA OIG SA on-scene. The VA OIG on-scene supervisor or other senior VA OIG SA must provide the BWCs to the program manager, who will upload the video files. The involved SAs and SA witnesses will not be permitted to view their BWC recording without the concurrence of the assigned prosecutor.

4. Internal Investigations. 51X may review BWC recordings in connection with an approved internal investigation.
5. Training. As stated earlier, BWC recordings may be used for training purposes. Access to those recordings will be coordinated through the BWC program manager. The program manager, in consultation with 50C, must obtain written permission of any VA OIG personnel whose recordings or images are depicted in any training videos.

X. REQUESTS FOR DISCLOSURE OR RELEASE OF BWC RECORDINGS

The BWC equipment and all data, images, video, audio, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of VA OIG. Other than the BWC program manager or the SAC of 51E, no VA OIG personnel shall, edit, alter, erase, duplicate, copy, share, or otherwise release, disclose, or distribute in any manner, any BWC recordings without prior written authorization from the AIGI, or their designee, in consultation with 50C. All requests for disclosure of BWC information must be processed according to OIG Directive 327, Protection and Release of Information.

In all circumstances, BWC recordings will be treated as law enforcement sensitive information, the premature disclosure of which could reasonably be expected to interfere with enforcement proceedings. BWC recordings will also be treated as potential evidence in a federal investigation subject to applicable federal laws, rules, and policies concerning any such disclosure; and therefore, deemed privileged absent appropriate redaction prior to disclosure. All requests for VA OIG BWC recordings for cases the Department of Justice (DOJ) has an interest in will be coordinated through DOJ in consultation with 50C. All other requests for VA OIG BWC recordings will be forwarded to 50C and processed in accordance with OIG Directive 327, Protection and Release of Information. Nothing in this policy will be deemed to provide a right of public access to BWC recordings.

A. Expedited Public Release of BWC Recordings

If BWC recordings depict conduct resulting in serious bodily injury or death of another, the VA OIG shall notify DOJ as early as possible to determine if DOJ desires to publicly release the BWC recordings. The VA OIG and DOJ will expeditiously review the recordings and provide official concurrence with public release as soon as practicable, unless there are specific and compelling circumstances justifying an objection to public release that cannot be resolved by redaction or other means. With DOJ's official concurrence, the VA OIG may immediately release the recordings with any redactions

agreed to, giving as much advance notice as possible to DOJ as to the time and manner of its release.

XI. BWC EQUIPMENT CARE, LOSS, AND THEFT

SAs may only use VA OIG-issued BWCs in the performance of their official duties. They must exercise reasonable care when using BWCs to ensure their proper functioning and use. They must also ensure that the BWC is fully charged before its deployment.

SAs must notify the BWC program manager of any equipment malfunctions as soon as possible. Loss or theft of a BWC should be reported to their immediate supervisor as soon as possible, but no later than 24 hours after the discovery of the loss or theft. The immediate supervisor must notify the BWC program manager and the SAC.

XII. TRAINING

All BWC training will be managed and overseen by the program manager and coordinated with the Office of Investigations National Training Coordinator. To ensure the proper use and operation of BWCs, as well as maintain compliance with privacy and civil liberties laws, SAs must establish and maintain proficiency and knowledge related to BWC deployment, including these three modules:

- a. Prior to deployment of BWCs, SAs must complete a VA OIG-approved initial training module to ensure the proper use and operation of the BWC, as well as compliance with privacy and civil liberties laws.
- b. SAs must complete a semiannual BWC familiarization module in conjunction with firearms and use of force training to maintain proficiency in the use of BWCs and ensure continued functionality of the devices. If SAs are unable to complete the required semiannual training, they must request a waiver from the AIGI.
- c. SAs must receive a refresher module during VA OIG CIGIE training to ensure proper use of the BWC, as well as compliance with privacy and civil liberties laws.

XIII. REFERENCES

- a. [Deputy Attorney General Memorandum, *Body-Worn Camera Policy*, June 7, 2021.](#)
- b. [The President of the United States, *Executive Order on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety*, May 25, 2022.](#)